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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,149	10/15/2003	Paul M. Crafton	C152 1131.1	6178
7590	12/19/2005		EXAMINER	
WOMBLE CARLYLE SANDRIDGE & RICE			RINEHART, KENNETH	
P.O. Box 7037			ART UNIT	PAPER NUMBER
Atlanta, GA 30357-0037			3749	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/686,149	CRAFTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kenneth B. Rinehart	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 33-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 33-38 is/are allowed.
- 6) Claim(s) 39-41 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1/15/03, 1/19/05 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 11/15/05 have been fully considered but they are not persuasive. The applicant is claiming a specific sequence of steps. The sequence of steps claimed is not shown in the passage from page 11, lines 6-12. The examiner disagrees with the assertions that claim 33 clearly contemplates "diverting a third batch of fly ash to the first processing unit before processing of the second batch of fly ash is complete" and "combusting the third batch in a combustion unit before combusting of the second batch is complete". The examiner does not believe that it is clear form claim 33 that these specific series of steps are contemplated.

Regarding claims 40 and 41 the applicant argues that the splitter of Ramme is capable of only dividing the flow in half. The examiner disagrees. Giving the claim language its broadest reasonable interpretation it is not unreasonable for the reference to read on the claim language. Regarding the applicant's argument the Ramme reference teaches only a single furnace or combustion unit. The examiner respectfully disagrees. From the reference it can be seen form the abstract that the injectors are in close proximity to the coal burners or that the fly ash is added to the pulverized coal stream leading to the burners. Each burner is generating its own combustion unit.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3749

Claims 39, and 40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 39 refers to “diverting a third batch of fly ash to a processing unit before processing of the second batch of fly ash is completed” which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Additionally, the applicant has created a new combination of limitations which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 40 refers to “combusting the third batch in a combustion unit before combusting of the second batch is complete” which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Additionally, the applicant has created a new combination of limitations which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 40, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramme (5992336). Ramme shows feeding fly ash to a diverter (54, fig. 4); diverting a plurality of batches of fly ash to a plurality of combustion units (fig.4), the plurality of batches including at least a first batch (to left of 56, fig. 4), second batch (to right of 55 and left of 56, fig.4), and third batch (to right of 56, fig. 4); combusting the first batch in a combustion unit (fig. 4); combusting the second batch in a combustion unit (fig. 4); and combusting the third batch in a combustion unit before combusting of the second batch is complete (fig. 4), a fly ash feed line (53, fig. 4), a diverter in flow communication with the feed line (54, fig. 4), the diverter including a first outlet in flow communication with a first combustion unit (57, fig. 4), and a second outlet in flow communication with a second combustion unit (57, fig. 4); and a collection vessel in flow communication with the first combustion unit and the second combustion unit (fig. 2), wherein the diverter is adapted to supply a plurality of batches of fly ash alternately to the first and second combustion units such that the system is substantially continuous (fig. 4).

*Allowable Subject Matter*

Claims 33-38 are allowed.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B. Rinehart whose telephone number is 571-272-4881. The examiner can normally be reached on 7:20 -4:20.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kbr

  
KENNETH RINEHART  
PRIMARY EXAMINER